

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>LISA BROWN, M.D.,</b>	)	
	)	
<b>Plaintiff</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 05-32E</b>
	)	
<b>HAMOT MEDICAL CENTER,</b>	)	
	)	
<b>Defendant</b>	)	

**DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION TO UNSEAL DOCUMENTS**

Defendant Hamot Medical Center (“defendant” or “Hamot”), through its undersigned counsel, hereby submits its response to the Plaintiff’s Motion To Unseal Documents (“Motion”) filed by plaintiff Lisa Brown (“plaintiff” or “Dr. Brown”), and states as follows:

1. Plaintiff’s Motion requests an Order directing the Clerk to unseal documents she inadvertently or mistakenly filed under seal pursuant to the terms of the Confidentiality Order.
2. Hamot has no objection to relief sought by plaintiff’s Motion and consents to the entry of the proposed Order submitted by plaintiff.
3. Hamot does take issue, however, with plaintiff’s effort to demonize Hamot through her inclusion in the Motion of several spurious allegations having absolutely nothing to do with the relief she seeks.
4. Of the 34 documents Hamot filed as exhibits to its summary judgment motion, only one was marked confidential.<sup>1</sup> As undersigned counsel previously explained to plaintiff’s counsel, this exhibit, a copy of Dr. Brown’s 2003 OITE scores, was marked confidential in error,

---

<sup>1</sup> As reflected by exhibits G through L in plaintiff’s Motion, it appears that some additional documents that were attached as exhibits to defendant’s summary judgment motion were, after having been initially produced by Hamot as non-confidential records, subsequently reproduced and inadvertently marked as confidential by Hamot. The documents that Hamot attached to its summary judgment motion, however, were those that had not been marked confidential. Plaintiff has never objected to these records being disclosed as non-confidential. In fact, she also produced at least one of these records without designating the document as confidential.

as neither her 2001 nor her 2002 OITE scores were similarly marked. See August 28, 2006 letter from Ziad Haddad, Esq. to Patrick Sorek, Esq. attached as Exhibit F to the Motion.

5. Nevertheless, in his August 28, 2006 letter, the undersigned offered to re-file this exhibit under seal if plaintiff still believed it should have been so filed. Id. The undersigned also offered to file under seal any other exhibits that had at any time been marked confidential by either party. Id.

6. Prior to filing the Motion, plaintiff neither accepted nor responded to the undersigned's offer to re-file the exhibits under seal, opting instead to file her Motion without first notifying defendant of her intention to do so.

7. Given her failure to engage in good faith efforts to resolve this matter prior to filing her Motion, the Court should decline plaintiff's invitation to consider this matter.

8. Should this Court consider the matter, however, defendant has no objection to the Clerk's re-filing under seal any documents that the Court believes should have been so filed.

Accordingly, defendant Hamot respectfully requests that this Court decline plaintiff's request to consider plaintiff's argument concerning defendant's alleged violation of the Confidentiality Order.

Respectfully submitted,

TOBIN, O'CONNOR, EWING & RICHARD

By /s/ Ziad P. Haddad

Kerry M. Richard, Esq.

Ziad P. Haddad, Esq.

Forrest G. Read, IV, Esq.

5335 Wisconsin Ave., N.W. Suite 700

Washington, DC 20015

(202) 362-5900

Counsel for Defendant Hamot Medical Center

Local Counsel:

KNOX McLAUGHLIN GORNALL &  
SENNETT, P.C.  
Mark J. Kuhar, Esq.  
120 West Tenth Street  
Erie, Pennsylvania 16501-1461  
(814) 459-2800

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on October 5, 2006, a copy of the foregoing was served by facsimile and by first-class, United States mail, postage pre-paid, on the following:

Patrick Sorek, Esq.  
Leech Tishman Fuscaldo & Lampl, LLC  
525 William Penn Place, 30<sup>th</sup> Floor  
Pittsburgh, PA 15219

/s/ Ziad P. Haddad

Ziad Haddad